

(1263)

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

IN THE MATTER OF:

NU-SKIN INTERNATIONAL, INC.
P.O. Box 801
Provo, Utah 84603

AG File No. 91-10034

Officers, Distributors, Agents,
Employees, Agency Representatives,
or Assignees,

Respondent.

NOTICE OF INTENDED ACTION AND
OPPORTUNITY TO CEASE AND DESIST

Frank J. Kelley, Attorney General of the State of Michigan, pursuant to the provisions of the Michigan Consumer Protection Act, 1976 PA 331, as amended; MCL 445.901 et seq; MSA 19.418(1) et seq, and the provisions of the Michigan Franchise Investment Law, 1974 PA 269, as amended, MCL 445.1501, et seq, hereby gives ten days notice upon the Respondent as required by Section 5(2), of the Michigan Consumer Protection Act, supra, and Section 35(2) of the Michigan Franchise Investment Law, supra, prior to commencement of an action against Respondent, to forthwith cease and desist from conducting business in the State of Michigan, or to confer with the Attorney General regarding the methods, acts or practices as hereinafter set forth:

1. Respondent is or has been conducting business in the State of Michigan from a location outside the state.



Count I

2. Respondent is engaged in the promotion of an illegal pyramid.

3. Respondent promotes products related to skin care, weight loss, and nutritional supplement.

4. Respondent is promoting thru their marketing plan a distribution system that includes referral sales in which a participant, hereinafter referred to as a distributor, receives valuable consideration for inducing other persons to enter into the marketing plan when the subsequent person purchases products through the Respondent company NU-SKIN International, Inc., hereinafter referred to as the Company.

5. Respondent represents thru its marketing plan that a distributor will receive valuable consideration or other things of value when a subsequent person who is sponsored into the marketing plan induces other persons to join into the "downline" structure of the original distributor, when these "downline" members purchase products from the Respondent.

6. Respondent's marketing plan refers to a "Family Link" bonus in their promotional literature representing that their marketing plan pays a bonus for recruiting others, as well as receiving a bonus on the subsequent person's personal volume, i.e., the wholesale value of the product the recruit buys from the Company

7. Respondent's marketing plan provides that each distributor and his "downline" members receive valuable consideration when persons below them in their individual downline purchase products through the Company, even though no significant supervision and control is exercised over these "downline" members.

8. Respondent's marketing plan provides that each distributor is required to maintain a \$100.00-\$499.00 Personal Volume, to receive 5% bonus on personally sponsored Distributor's Personal Volume. Each distributor's bonus has the potential to grow exponentially according to the dollar amount of the wholesale value of the product, Distributor personally purchases, as well as that which each of his downline personally purchases.

9. Respondent's marketing plan benefits Distributors primarily based upon the inducement of others to participate in the scheme, rather than upon retail sales. The marketing plan does not require retail sales to the ultimate consumer, of product purchased through the Company, by any of the distributor's "downline" members.

10. The aforementioned methods, acts or practices in the conduct of trade or commerce are in violation of Section 28 of the Michigan Franchise Investment Law, supra, which reads in pertinent part as follows:

"Sec. 28. (1) A person may not offer or sell any form of participation in a pyramid or chain promotion. A pyramid or chain promotion is any plan or scheme or device by which (a) a

participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program or (b) a participant is to receive compensation when a person introduced by the participant introduces one or more additional persons into participation in the plan, each of whom receives the same or similar right, privilege, license, chance, or opportunity.

(2) A pyramid or chain promotion is declared to be illegal and against the public policy of the state. Any contract made in violation of this section is voidable at the sole option of the purchaser.

(3) The department shall not accept for filing a franchise which involves a pyramid or chain distribution contrary to the laws of this state."

COUNT II

11. Respondent is engaged in the sale of a business opportunity.

12. Respondent offers for sale skin care, weight loss and nutritional supplement products for the purpose of enabling the purchaser to start a business.

13. Respondent makes oral and written representations, in the solicitation and sale of said business opportunity, that purchasers will earn large sums of money, in excess of that which was paid for the business opportunity.

14. Respondent's marketing plan requires distributors to make at least a minimum \$100.00 product purchase, monthly, to earn a 5% or more bonus on personally sponsored Distributor's purchases from Respondent, each of whom is required to make the

same minimum monthly purchase. An active Distributor pays more than \$500.00 in total for the business opportunity from the initial date date of sale to anytime within 6 months after the date of sale.

15. Respondent represents during the sale of said business opportunity that they will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity which exceeds the price paid for the business opportunity.

16. During the solicitation and sale of said business opportunity, Respondent has failed to send notice to the Attorney General prior to the first sale of a business opportunity, all as set forth in Section 3b of the Act, supra.

17. The aforementioned methods, acts or practices in the conduct of trade or commerce are violative of Section 3b of Consumer Protection Act, supra, which reads in pertinent part as follows:

"Sec. 3b(1) In addition to the unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce defined in section 3, it is unlawful for the seller of a business opportunity to fail to file a notice with the Attorney General on or before the first sale of a business opportunity in this state if the purchaser pays more than \$500.00 in total for the business opportunity from any time before the date of sale to any time within six months after the date of sale. The form of the notice shall be prescribed by the attorney general. The attorney general shall not require the seller to file more than the following information:

- (a) The name of the seller.
- (b) The name under which the seller

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- (c) intends to do business.
- (d) The seller's principal business address.
- (d) If the seller is not domiciled in Michigan, a consent to service of process.

(2) The seller shall immediately notify the attorney general of a change in the information contained in the notice.

(3) A reference to section 3 of this act shall be considered to include a reference to this section."

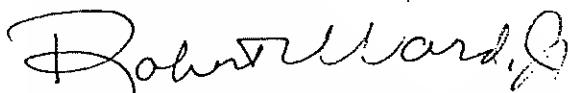
Wherefore, pursuant to Section 5(2) of the Consumer Protection Act, supra, and Section 35(2) of the Michigan Franchise Investment Law, supra, you may advise the Attorney General that you have ceased and desisted from the methods, acts or practices set forth above and may request an opportunity to confer with the Office of the Attorney General. If you elect to cease and desist, the Attorney General may accept an Assurance of Discontinuance in lieu of instituting an action in Circuit Court. The Assurance of Discontinuance may include, among other things, costs of investigation, restitution to aggrieved persons and other corrective or remedial measures deemed appropriate by the Office of Attorney General.

If you fail to cease and desist within ten days after receiving this notice and to reach a voluntary disposition of this matter, the Attorney General is authorized to seek injunctive or other applicable relief to restrain you from continuing to violate the law.

If you decide to cease and desist the practices described above and to voluntarily resolve this matter, you must contact the undersigned Assistant Attorney General within ten days after you have received this notice to avoid the institution of any action.

Respectfully submitted,

FRANK J. KELLEY
Attorney General



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Dated: March 20, 1991